United Nations CCPR/C/SR.2450

International Covenant on Civil and Political Rights

Distr.: General
3 April 2007

Original: English

Human Rights Committee

Eighty-ninth session

Summary record of the 2450th meeting

Held at Headquarters, New York, on Thursday, 29 March 2007, at 10 a.m.

Chairperson: Mr. Rivas Posada

Contents

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Progress r*eport of the Special Rapporteur for follow-up on Views*

Organizational and other matters (*continued*)

Recommendations for the strengthening of follow-up activities (*continued*)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

07-28837 (E)

The meeting was called to order at 10.10 a.m.

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Progress report of the Special Rapporteur for follow-up on Views (CCPR/C/89/R.5)

1. **Mr. Shearer** (Special Rapporteur for follow-up on Views) introduced his report, which compiled information received during the eighty-eighth and eighty-ninth sessions of the Committee. In the case of *Coleman v. Australia* (communication No. 1157/2003) and *Brough v. Australia* (communication No. 1184/2003), the State party contested the Committee's Views in its respective responses. For both cases the Committee's comments regarding further action would indicate that the State party's response had been submitted to the author for comments on 23 February 2007 with a deadline of two months for a reply and that the Committee regretted the State party's refusal to accept the Committee's Views and considered the dialogue ongoing.

2. With regard to the cases of *Bondarenko v. Belarus* (communication No. 886/1999) and *Lyashkevich v. Belarus* (communication No. 887/1999), the State party contested the Committee's Views, citing the lack of a definition of cruel, inhumane or degrading treatment, and also noted that its Parliament had asked the Constitutional Court to review the provisions of the Criminal Code relating to the death penalty in the light of the Constitution and the State party's international obligations. The Committee's comments regarding further action would indicate that the Committee regretted the State party's refusal to accept the Committee's Views and considered the dialogue ongoing. The comments would indicate that the Secretariat and the Office of the United Nations High Commissioner for Human Rights were ready to assist the State party in the examination of its obligations under international law with respect to the imposition of the death penalty and also request further information on the issues to be examined by the Constitutional Court and the likely time frame for consideration. In the cases of *Svetik v. Belarus* (communication No. 927/2000) and *Korneenko v. Belarus* (communication No. 1274/2004) the State party likewise contested the Committee's Views. The Committee's comments with regard to both cases would be the standard phrasing according to which the Committee regretted the State party's refusal to accept the Committee's Views and considered the dialogue ongoing.

3. Turning to the case of *Sankara et al. v. Burkina Faso* (communication No. 1159/2003), he recalled that the State party, in its response, had agreed to implement the Committee's Views. The authors, however, in their comments, maintained their demand for a public inquiry into Mr. Sankara's death. The Committee was still awaiting the State party's response to the authors' comments.

4. **Ms. Chanet** said that the State party in the latter case seemed prepared to implement the Committee's Views. Although she understood the family's desire for an independent inquiry, that had not been recommended by the Committee. Under "Further action", the Committee indicated that the author's comments had been sent to the State party for comment on 26 February 2007. Therefore, it should also be indicated that the Committee's dialogue with the State party was ongoing.

5. **Ms. Majodina** agreed that the Committee should indicate that it considered its dialogue with the State party to be ongoing. She also wondered if the Special Rapporteur could clarify the reference in the author's comments to the fact that, according to the Procurator, a judicial inquiry could not be undertaken by the Minister of Defence because such an action was "time-barred".

6. **Mr. Shearer** said the expression "time-barred" no doubt referred to some statute of limitations, or a moratorium with regard to events during the period of political upheaval in question. More information in that regard could be requested of the State party. Given that the Committee was still waiting for a reply from the State party, he considered the case to be ongoing.

7. **Mr. Glélé Ahanhanzo**, supported by **Mr. Amor**, said the case should be considered ongoing in order to ensure that the Committee's Views were in fact implemented.

8. **Mr. Schmidt** (Team Leader, Petitions Unit) said that the State party had been very cooperative. The State party and the authors seemed unable to reach agreement on what constituted an effective remedy. He recalled that during the Committee's discussion of the case a majority of members had felt that it would not be appropriate to recommend an independent inquiry and the Committee had therefore confined itself in its

Views to calling for the payment of compensation and public recognition of the victim's burial site. He suggested that the case should be kept open pending receipt of the State party's comments.

9. **The Chairperson** said he took it that the Committee agreed to that suggestion.

10. **Mr. Shearer** drew attention to the case of *El Gahr v. Libyan Arab Jamahiriya* (communication No. 1107/2002). The State party had implemented the Committee's Views by finally issuing a passport to the author for her studies in Europe, but a passport valid for only two, not the usual five, years. Under "further action", the Committee would note the decision to provide the author with a passport but would request the State party to comment on its reasons for issuing a passport valid for only two years.

11. **Mr. Schmidt** (Team Leader, Petitions Unit) said the case had been discussed with the State party since the adoption of the Committee's Views in March 2004; regular updates had also been received from the author. There did seem to be an element of vindictiveness in the issuance of a passport valid for only two years, when the author's studies would require at least three years and she would therefore be forced to request the issuance of another passport. In follow-up telephone calls the author had also raised the question of financial compensation for the hardship and financial loss caused by the State party's refusal to issue a passport.

12. **Mr. Khalil**, supported by **Mr. Bhagwati**, said that the Committee must request an explanation from the State party. The case had been dragging on for a long time and the issuance of a passport valid for only two years seemed clearly vindictive. The Committee should try to prevail on the State party to at least issue the author a passport valid for the duration of her studies.

13. **The Chairperson** said the Committee's comments on further action would include a request that the State party explain its decision to issue a passport for two years rather than the usual five years.

14. **Mr. Shearer** drew attention to the case of *Fijalkowska v. Poland* (communication No. 1061/2002), which, in his view, had been settled when the author had accepted, by way of a remedy, the sum of 20,000 PLN ($6,696).

15. Turning to the case of *Correia de Matos v. Portugal* (communication No. 1123/2002), he recalled that the Committee had found a violation of article 14, paragraph 3 (d), of the Covenant because the author, a lawyer who had been suspended from the bar, had been denied the right to represent himself during legal proceedings. In its response, however, the State party concerned had refused to accept the Committee's Views on the ground that the text of article 14, paragraph 3 (d), of the Covenant seemed to indicate that everyone charged with a criminal offence had either the right to defend himself in person or through legal assistance of his own choosing. He felt that the follow-up process had reached an impasse.

16. **Ms. Chanet**, supported by **the Chairperson**, drew attention to the disrespectful tone adopted by both the State party and the author. However, the Committee should maintain its position and transmit the author's comments to the State party.

17. **Mr. Shearer** agreed with Ms. Chanet, but wondered how useful it would be to enter into further correspondence with the State party.

18. **Mr. Schmidt** (Team Leader, Petitions Unit) said that he would check whether the author's response of 23 November 2006 had already been transmitted to the State party. It was abundantly clear from the correspondence relating to the case that relations between the parties to the dispute had turned sour, and he understood that the author was now calling for payment of €1,000 per day as interest on the compensation due.

19. **The Chairperson** said that the Committee would re-contact the State party.

20. **Mr. Shearer** drew attention to the case of *Zheikov v. Russian Federation* (communication No. 889/1999). In its response to the Committee's Views, the State party had concluded that, in accordance with article 2 of the Covenant and as per the Committee's recommendation, it had provided an effective remedy. It had been impossible to identify an individual against whom to bring criminal proceedings because Mr. Zheikov had given contradictory evidence as to the injuries caused and the identity of the culprits. The State party had also claimed that the author had not exhausted all domestic remedies.

21. **Mr. Schmidt** (Team Leader, Petitions Unit) said that the author had submitted a faxed response

expressing his dissatisfaction with the State party's failure to implement the Committee's Views and calling for compensation in the amount of $72 billion.

22. **Ms. Chanet** said that the additional information provided by Mr. Schmidt should be incorporated into the progress report. The Committee should continue its dialogue with the parties and transmit the author's response to the State party.

23. **The Chairperson** said that the dialogue between the parties and the Committee would remain ongoing.

24. **Mr. Shearer** drew attention to the case of *Bazarov v. Uzbekistan* (communication No. 959/2000). The Committee had found violations of various articles of the Covenant and had recommended that the State party should provide an effective remedy, including information concerning the burial site and effective reparation for the anguish suffered. He was particularly concerned by the last section of the State party's response, according to which it was not in keeping with current Uzbek legislation to supply the Committee with the text of the relevant Supreme Court judgement. The Committee should react to that extraordinary assertion, which appeared to violate the provisions of article 14 of the Covenant. He added that representatives of the Permanent Mission of Uzbekistan to the United Nations in New York had informed him that existing legislation prohibiting the publication of burial sites of criminals was currently being reviewed by Parliament.

25. With regard to the case of *Kornetov v. Uzbekistan* (communication No. 1057/2002), he said that the State party, in implementation of the Committee's recommendations, had commuted Mr. Kornetov's death sentence to 20 years' imprisonment. Furthermore, in its response, the State party had indicated that the author was entitled to file an appeal for compensation. The Committee had asked the author for his comments.

26. **Ms. Chanet**, referring to the case of *Bazarov v. Uzbekistan*, stressed the importance of mentioning paragraph 29 of the draft general comment on article 14 of the Covenant when responding to the State party's assertion that the text of the Supreme Court judgement was not in the public domain.

27. **Mr. Schmidt** (Team Leader, Petitions Unit), referring to the case of *Bazarov v. Uzbekistan*, noted that Uzbekistan had begun to take a less conciliatory stance towards the Committee. He would raise the matter with the Permanent Mission in Geneva in July.

28. **The Chairperson** said that the dialogue between the parties and the Committee would remain ongoing in both cases.

29. **Mr. Shearer** said that he had some additional information relating to the case of *Young v. Australia* (communication No. 941/2000): a private members' bill proposing the abolition of discriminatory pension legislation had recently been introduced in the Australian Parliament and the Government had pledged to support it.

30. **Mr. Schmidt** (Team Leader, Petitions Unit) pointed out that legislation granting pension rights to surviving same-sex partners in Colombia was due to be adopted very shortly. Turning to the case of *Alzery v. Sweden* (communication No. 1416/2005), he said that the Committee's Views had been transmitted to the Swedish Government, which had submitted a preliminary response. According to that response, the proceedings resulting in the denial of asylum to Mr. Alzery had not been conducted properly, and a request for his return from the receiving country might therefore be forthcoming. The State party had also indicated that Mr. Alzery's family members were entitled to asylum, and that the Ombudsman had been asked to determine the compensation payable to those family members and possibly also to Mr. Alzery himself. Those arrangements would be set out in further detail in a further follow-up response.

31. **Ms. Chanet** welcomed the progress made in furthering understanding of the communications procedure among States parties.

The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.

Organizational and other matters (*continued*)

Recommendations for the strengthening of follow-up activities (*continued*) (CCPR/C/88/CRP.1)

32. **Mr. Shearer** said that, having previously discussed the background paper on strengthening follow-up to Views and concluding observations (CCPR/C/88/CRP.1), the Committee should now focus exclusively on the recommendations in sections E, F and G. Starting with section E, first subparagraph, he said there were two opposing opinions on follow-up: either follow-up issues could be reflected in a written

document to be submitted for discussion only at the Committee's July session when it adopted the annual report, or follow-up should be considered one of the Committee's top priorities and there was no point in adopting concluding observations and Views if the Committee set aside comparatively little time for follow-up. He himself was of the latter opinion and suggested that follow-up matters should be dealt with at an earlier point on the agenda.

33. Regarding section E, second subparagraph, a distinction should be made between press releases and press conferences — the latter should be specific to a particular country report or particular case. In addition, Sir Nigel Rodley, who unfortunately was unable to attend the current meeting, had submitted written proposals, including one which suggested issuing press releases in addition to holding press conferences with regard to concluding observations, as press conferences were often indifferently attended. Sir Nigel Rodley had also suggested issuing a press release on follow-up to the Committee's Views under the Optional Protocol. It was his (Mr. Shearer's) understanding that, while the Committee had decided not to hold a press conference at the end of the current session due to organizational difficulties, it would do so at future sessions, and in that case, suggested that country rapporteurs for the relevant concluding observations and case rapporteurs should be asked to attend.

34. Section E, third subparagraph, was fairly uncontroversial. The fourth subparagraph of that section dealt with what was often referred to as the "naming and shaming" process, the only effective way within the United Nations system to ensure compliance by States parties with their obligations under the various treaties, including the Covenant and the Optional Protocol. Finally, the fifth subparagraph covered follow-up missions and criteria.

35. **Ms. Chanet** said that she agreed with the principle behind the first subparagraph, but stressed that flexibility would be required in following the recommendation. It was very important to refer to both press releases and press conferences in the second subparagraph. As to the third subparagraph, she had nothing against country rapporteurs attending consultations, but in any case it was crucial to prepare adequately for press conferences, as the Committee should present a unified position. Finally, while agreeing with the criteria set out in the fifth subparagraph, she said that in order to determine the countries in which missions should be carried out, the Secretariat should first conduct an extensive study of the countries concerned.

36. **Ms. Motoc** said that the considerable influence of the media made relations with them extremely important and she wondered if the Secretariat might attempt to establish personal relationships with journalists interested in the United Nations, with a view to making the Committee's activities better known. She referred to the bad press recently received by the Human Rights Council in *The New York Times* and observed that the public had the impression that the Council did not do anything between its sessions. The Committee should devise a more elaborate, effective media strategy. She furthermore supported the recommendation for the attendance of rapporteurs at consultations with States parties and endorsed Ms. Chanet's view that the Committee should hold a meeting in order to prepare a firm, unified position at end-of-session press conferences.

37. **Mr. O'Flaherty** said that he supported the first subparagraph. He was also in favour of the second subparagraph, but in the broader context of the Committee's discussion, so that it included reference to press conferences and the involvement of rapporteurs in such events. He reiterated his previous suggestion that a separate recommendation should be made for the nomination of a Committee member to devise, in consultation with the other members, a media strategy, taking into account inter alia Ms. Wedgwood's suggestions for electronic dissemination of information. He agreed with the third subparagraph, but said that it should include a reference to the participation of country rapporteurs in meetings. He had no strong feelings about the fourth subparagraph and supported the fifth subparagraph, but again stressed the importance of a specific reference to the participation of country rapporteurs. Further to Ms. Chanet's suggestion for an in-depth study of countries in which missions might be carried out, he stressed that assurances were needed from the Secretariat regarding financial feasibility. Furthermore, he said he did not accept the Secretariat's argument that the Committee was not likely to receive invitations from States parties that it actually wished to visit, and proposed including that point as an additional criterion for missions.

38. **The Chairperson** noted that Mr. Shearer had volunteered to formulate a few proposals relating to

general media strategy, and that proposal had been accepted by the Committee Bureau.

39. **Mr. Bhagwati** said that very little was known about the Committee and the Covenant in developing countries, which needed to be taken into account in any media strategy, especially since their means of communication were much less effective than those of developed countries.

40. **Mr. Glélé Ahanhanzo** endorsed Mr. Bhagwati's remarks on developing countries and observed that few people in Africa appeared to understand the jurisdiction and function of either the Human Rights Council or the Committee. The media strategy should clarify the respective activities of each, and the end-of-session press release should be transmitted to the media of all countries around the world. He did not believe that the attendance of rapporteurs at meetings with States parties made any difference to outcomes. Finally, he supported the recommendation regarding follow-up missions but stressed that it was the Committee itself that should select the countries involved, based on essential criteria.

41. **Ms. Chanet** said that while the end-of-session press conference had never been a great success, it was nevertheless very important and the Committee was responsible for making the occasion worthwhile for journalists. The interim press releases were also very much a priority. End-of-session press conferences should be held at the Palais des Nations rather than at the Palais Wilson when the Committee met in Geneva. She agreed with Ms. Motoc's suggestion regarding the establishment of personal relations with journalists, and supported Ms. Wedgwood's proposals for exploring further high-technology means of communication such as the Internet. Finally, while country rapporteurs should be involved in preparatory meetings, they should not necessarily participate in actual press conferences.

42. **The Chairperson** invited members to provide Mr. Shearer with input for the media strategy.

43. **Ms. Palm** agreed about the need to give special attention to making the Committee's work known in developing countries but said that such efforts were also required in the developed world. In her own country, Sweden, people did not distinguish between the Human Rights Council and other United Nations human rights bodies. She welcomed any measure that would add to the Committee's visibility. On the question of country missions, she stressed the need to have an invitation from the State party concerned and suggested that a criterion to that effect should be included in the recommendations.

44. **Ms. Majodina** said that media organizations, particularly from countries whose reports had been considered by the Committee, should be invited to its press conferences. NGOs also did useful work, particularly by drawing up "shadow reports", and should be invited to play a greater advocacy role for the Committee. States parties should contribute to the implementation of a media strategy from the very outset, at the press conference and press release stage.

45. **Mr. Khalil** stressed how important it was that all the Committee's work, and not just the part of it relating to communications, should be publicized in developing countries. He recalled that, when his own country's report had been considered by the Committee, almost nothing had been reported in that connection in the national press. It was also desirable to take into account the prevailing climate in each country. Since many countries had resident representatives in New York with whom some of the members had personal contacts, they should be approached so as to ascertain their views and ensure the newsworthiness of the Committee's press releases for the national press. Press representatives from the regions concerned should likewise be contacted to that end.

46. **Mr. Bhagwati** said that one prong of the media strategy should consist in action by individual members in their respective regions, targeting radio and television in particular. He had himself made a series of short films that had contributed significantly to the development of women's awareness of their rights in India, where ordinary women did not read newspapers. Members should also contact NGOs, which often had extensive networks in developing countries.

47. **The Chairperson** noted the interest taken by members in the Committee's relations with the media, which confirmed the need to give all due importance to framing and considering an appropriate strategy based on the ideas expressed in the background paper (CCPR/C/88/CRP.1) and their comments thereon.

48. **Mr. Johnson** concurred with the suggestion that members should promote the Committee's work individually in their own countries and regions. He said

that, in drafting the strategy paper, Mr. Shearer might usefully take into account not only the views expressed by members but also their relevant experience, especially that of Ms. Motoc, whose assistance would be valuable.

49. **Ms. Chanet** reverted to the question of invitations for follow-up missions. As some States might well be reluctant to issue such an invitation, a more flexible wording should be adopted in the recommendation, so as to favour negotiation. Moreover, delegations sometimes welcomed direct contacts between the Committee and their central authorities, with which they themselves did not always enjoy easy communication. It should be recommended that, where appropriate, a follow-up mission should be proposed and negotiated with States parties.

50. **The Chairperson** welcomed that suggestion. It would, however, be necessary to request information from the Secretariat as to the feasibility of such missions before setting in motion such a process of negotiation. The Committee would also have to define the scope and mandate of the missions, which should cover all aspects of its work.

51. **Ms. Palm** said that she was by no means opposed to entering into discussions with States with a view to ensuring a favourable reception to follow-up missions but that, if no result was thereby achieved, there was little point in undertaking such missions.

52. **The Chairperson** stressed the desirability, in the interests of efficiency, of both country rapporteurs and special rapporteurs for follow-up being present at meetings with States parties, rather than their having separate contacts, as was currently the case.

53. **Mr. Shearer** said that he would take due account of all the suggestions made when drawing up the strategy. He would aim at having a paper ready three weeks before the next session in July 2007, which he would circulate to members for comments before its consideration by the Committee. He agreed to include States parties' invitations as a criterion for follow-up missions, noting that spontaneous invitations were sometimes received. On the feasibility of such missions, he recalled that, according to the Secretariat, the cost of annual visits was to be included in the Committee's budget; they were therefore a real possibility.

54. **The Chairperson** suggested that the Committee's discussion on the recommendations in sections F and G of the background paper (CCPR/C/88/CRP.1) should remain open.

The meeting rose at 1 p.m.